

Message Text

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TO AMEMBASSY WARSAW

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E.O. 11652: N/A

TAGS:EAIR, PL

SUBJECT: US-POLISH AVIATION PROBLEMS

REF: A) STATE 147991 B) STATE 187864

1. DURING HIS MEETING WITH LUERS ON AUGUST 17, AMBASSADOR TRAMPCZYNSKI RAISED TWO AVIATION SUBJECTS; THE POLES' REQUEST FOR AN INDIRECT FOREIGN AIR CARRIER PERMIT AND THE UPCOMING CHARTER FLIGHT NEGOTIATIONS. THIS IS A STATUS REPORT ON THOSE TWO ISSUES.

2. THE POLES HAVE HAD PENDING WITH THE CAB FOR TWO YEARS A REQUEST FOR AN INDIRECT FOREIGN AIR CARRIER PERMIT WHICH WOULD ALLOW ORBIS TO ORGANIZE TOURS IN THE US. DURING THE PROCEEDINGS IT WAS ESTABLISHED THAT ORBIS HAD ACQUIRED PARGIELLO SERVICES INCORPORATED, A US TRAVEL AGENCY. SEC-
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TION 408 OF THE FEDERAL AVIATION ACT PROHIBITS A FOREIGN AIR CARRIER FROM ACQUIRING A US CITIZEN ENGAGED IN AERONAUTICS WITHOUT PRIOR APPROVAL OF THE CAB. PARGIELLO IS A US CITIZEN ENGAGED IN AERONAUTICS, AND ORBIS, BY VIRTUE OF THE FACT THAT IT APPLIED FOR AN INDIRECT FOREIGN AIR CARRIER PERMIT BECAME A FOREIGN AIR CARRIER FOR PURPOSES OF THE ACT. IF ORBIS ACQUIRED PARGIELLO AFTER JUNE 6, 1975,

THE DATE ON WHICH ORBIS APPLIED FOR ITS PERMIT, THEN ORBIS

IS GUILTY OF A TECHNICAL VIOLATION OF SECTION 408. WE HAVE BEEN TOLD THAT SUCH VIOLATIONS USUALLY WARRANT ONLY A LETTER OF REPRIMAND, AND THAT DENIAL OF THE PENDING APPLICATION WOULD PROBABLY NOT PROHIBIT THE POLES FROM FILING A NEW APPLICATION.

3. THE POLES APPEAR TO BE UPSET ABOUT THIS PROCEEDING FOR TWO REASONS. THEY ARE CONCERNED THAT CAB IS TREATING THEM AS A FOREIGN AIR CARRIER BECAUSE BOTH ORBIS AND LOT BELONG TO THE POLISH GOVERNMENT. THIS IS NOT THE CASE. THEY ARE ALSO DISTURBED BECAUSE THE NOTICE TO ALL PARTIES SENT OUT BY THE CAB ADMINISTRATIVE LAW JUDGE ON JULY 19, 1977 RECOGNIZES THAT REQUESTS TO WITHDRAW APPLICATIONS ARE USUALLY GRANTED, AND YET THEIR REQUEST TO DO SO HAS BEEN DENIED. THE JUDGE TOOK THIS DECISION BECAUSE THE CASE HAS BEEN PENDING FOR TWO YEARS; BECAUSE IT HAD USED UP A SUBSTANTIAL AMOUNT OF THE CAB'S TIME AND RESOURCES; AND BECAUSE THERE IS SOME PRIMA FACIE EVIDENCE OF THE TECHNICAL VIOLATION DESCRIBED ABOVE.

4. ALTHOUGH THE JUDGE MAY DENY ORBIS' REQUEST FOR A PERMIT AND MAY RECOMMEND TO THE CAB THAT THE CAB'S BUREAU OF ENFORCEMENT LOOK INTO THE POSSIBLE VIOLATION OF SECTION 408, WE DO NOT BELIEVE THAT THIS WILL LIMITED OFFICIAL USE

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HAVE ANY SIGNIFICANT EFFECT ON POLAND'S OPERATIONS IN THE US.

5. THE US POSITION ON CHARTER FLIGHTS, AS EXPRESSED IN THE REFTEL, REMAINS UNCHANGED. IF THE SUBJECT IS RAISED DURING LUERS' VISIT HE SHOULD SAY THAT HE HOPES A SATISFACTORY SOLUTION CAN BE REACHED DURING THE SEPTEMBER CONSULTATIONS, BECAUSE ANY POLISH ACTION THAT DISCRIMINATES AGAINST OUR SUPPLEMENTAL CARRIERS WOULD BE A MATTER OF SERIOUS CONCERN TO US.

6. ACTION REQUESTED: PLEASE CONFIRM THAT DATES SUGGESTED IN PARA 3, REF. C. ARE ACCEPTABLE TO POLES. VANCE

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